Supreme Court, U.S.
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NO. 89-1779

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1990

BEULAH W. BOOKER,
PETITIONER

V.

THE HONORABLE PAUL E. RILEY, et al.,
RESPONDENTS

ON PETITION FOR WRIT OF CERTIORARI FROM THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF OF RESPONDENT PAUL E. RILEY IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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BEST AVAILABLE COPY

QUESTIONS PRESENTED

Whether the District Court correctly determined that Respondent Paul E. Riley, a state trial court judge, was entitled to dismissal of the plaintiff's complaint pursuant to the doctrine of judicial immunity.

LIST OF ALL PARTIES

Petitioner: Beulah W. Booker

Respondents: Paul E. Riley
Gary T. Brinsfield
Delco - Moraine Division
of General Motors Corporation

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STATEMENT OF THE CASE

This case originated in the Court of Common Pleas of Montgomery County, Ohio, in the form of a workers' compensation action filed by Beulah Booker in a pro-se capacity against Delco Moraine Division of the General Motors Corporation. Following a rather complicated pre-trial process, the case was assigned to the Honorable Paul E. Riley, a visiting judge from Clinton County, Ohio. Trial of the action was conducted on June 24, 1986, and a directed verdict was granted in favor of defendant Delco Moraine.

On July 15, 1987, the Petitioner filed a rambling complaint against Judge Riley, Delco Moraine, and Gary T. Brinsfield, the attorney who represented its interests in the workers' compensation action. According to its caption, the complaint alleged causes of action for conspiracy, discrimination, and violation of constitutional rights under 42 U.S.C § 1983. However, the underlying theme of the complaint was one of dissatisfaction with the courtroom administration and rulings of Judge Riley during the course of trial of the Petitioner's action against Delco Moraine. Much of the complaint was devoted to a rambling narrative of recalled events, perceived injustices, and miscellaneous episodes.

On July 31, 1987, counsel for Judge Riley filed an F.R.C.P. 12(B)(6) motion to dismiss the complaint on the grounds that it incorporated no allegations which were not barred by the doctrine of judicial immunity. On July 14, 1988, the District Court sustained the motion of Judge Riley and entered judgment in his favor. An appeal was lodged on July 21, 1989, in the United States Court of Appeals for the Sixth Circuit. The Court's decision thereon affirmed the decision of the district judge in a March 13, 1990 order. On May 14, 1990, a petition for writ of certiorari was filed in this Court.

SUMMARY OF ARGUMENT

The dismissal of the complaint of the Petitioner by the United States District Court for the Southern District of Ohio, as affirmed by the United States Court of Appeals for the Sixth Circuit, was in accordance with the well-established doctrine of judicial immunity. There is no question of law or constitutional issue involved in this case that justifies the grant of a writ of certiorari.

ARGUMENT

The doctrine of judicial immunity is an established principle of common law which is followed by the federal courts and those of nearly every state jurisdiction. See, e.g., Randall v. Brigham, 74 U.S. 523 (1868); Dennis v. Sparks, 449 U.S. 24 (1980); Harris v. Deveaux, 780 F. 2d 911 (11th Cir. 1986). Founded upon the need to protect the integrity and independence of the judiciary from the threat of legal action by dissatisfied litigants, the doctrine stands for the proposition that judges are immune from damages which result from actions or decisions taken in cases over which subject matter jurisdiction exists. Bradley v. Fisher, 13 Wall. 335 (1872).

A leading decision of this Court which recognized the continuing viability of the doctrine of judicial immunity within the context of 42 U.S.C. § 1983 civil rights actions is Stump v. Sparkman, 435 U.S. 349 (1978), a case which arose when an Indiana state court judge ordered the involuntary sterilization of the plaintiff. In concluding that judicial immunity was available as a defense to civil liability for damages arising from the sterilization order, this Court described the scope of the doctrine and its application to civil rights cases:

> The governing principle of law is well established and is not questioned by the parties. As early as 1872, the Court recognized that it was "a general principle of the highest importance to the proper administration of justice that a judicial officer, in exercising the authority vested in him, [should] be free to act upon his own convictions, without apprehension of personal consequences to himself." Bradley v. Fisher, supra, at 347, 20 L. Ed. 646. For that reason, the Court held that "judges of courts of

superior or general jurisdiction are not liable to civil actions for their judicial acts, even when such acts are in excess of their jurisdiction, and are alleged to have been done maliciously or corruptly." 13 Wall, at 351. Later, we held that this doctrine of judicial immunity was applicable in suits under § 1 of the Civil Rights Act of 1871, 42 USC § 1983, for the legislative record gave no indication that Congress intended to abolish this long-standing principle. Pierson v. Ray, 386 U.S. 547, 18 L. Ed. 2d 288, 87 S. Ct. 1213 (1967).

The Court of Appeals correctly recognized that the necessary inquiry in determining whether a defendant judge is immune from suit is whether at the time he took the challenged action he had jurisdiction over the subject matter before him. Because "some of the most difficult and embarrassing questions which a judicial officer is called upon to consider and determine relate to his jurisdiction...," Bradley, supra, at 352, the scope of the judge's jurisdiction must be construed broadly where the issue is the immunity of the judge. A judge will not be deprived of immunity because the action he took was in error, was done maliciously or was in excess of his authority; rather, he will be subject to liability only when he has acted in the "clear absence of all jurisdiction." 13 Wall, at 351.

Stump v. Sparkman, 435 U.S. 349 (1978) at 356-7.

According to Pierson v. Ray, 386 U.S. 547 (1967), the Civil Rights Act does not operate as an exception to the doctrine of judicial immunity. The sole avenue by which application of the doctrine may be avoided rests in judicial acts which are taken in the complete absence of subject matter jurisdiction. A judge will not be held civilly liable for decisions which are erroneous, procedurally defective, or in excess of authority. As stated by the United States Court of Appeals for the Sixth Circuit:

> First, a judicial officer does not act in the clear absence of all jurisdiction if he merely acts in excess of his authority. See Stump, 435 U.S. at 356, 98 S. Ct. at 1104; Rankin v. Howard, 633 F. 2d 844, 849 (9th Cir. 1980), cert. denied sub nom. Zeller v. Rankin, 451 U.S. 939, 101 S. Ct. 2020, 68 L. Ed. 2d (1981). The Supreme Court has held, for instance, that if a judicial officer exceeds his authority in a type of case that he normally has jurisdiction to hear, the officer has not acted in the absence of all jurisdiction. See Stump, 435 U.S. at 357 n. 7, 98 S. Ct. at 1105 n. 7; see also Lopez v. Vanderwater, 620 F. 2d 1229, 1234 (7th Cir.), cert. dismissed, 449 U.S. 1028, 101 S. Ct. 601, 66 L. Ed. 2d 491 (1980)....
>
> Second, the Supreme Court has specifically held that the commission of grave procedural errors, including those involving due process, does not constitute judicial action taken in the clear absence of all jurisdiction. See Stump, 435 U.S. at 359, 98 S. Ct. at 1106; see also Lopez, 620 F. 2d at 1234.

Sevier v. Turner, 742 F. 2d 262 (6th Cir. 1984) at 742 F. 2d 271. See also O'Bryan v. Chandler, 352 F. 2d 987 (10th Cir. 1965), cert. den. 384 U.S. 926 (1966).

The doctrine of judicial immunity is likewise not compromised by allegations of conspiracy such as those reflected by the Petitioner's complaint. Motives which generate a particular judicial act have no bearing upon application of the doctrine. Bradley v. Fisher, 13 Wall. 335 (1872); Cleavinger v. Saxner, 474 U.S. 193 (1985). Contentions of conspiracy to violate civil rights on the part of a judge have been specifically held not to avoid immunity. Franklin v. Meredith, 386 F. 2d 958 (10th Cir. 1967); Ashelman v. Pope, 793 F. 2d 1072 (9th Cir. 1986).

In the matter before this Court, all of the actions alleged in the Petitioner's complaint occurred in connection with the role of Judge Riley as presiding jurist over a state court action. Subject matter jurisdiction was accordingly present, and the district court and circuit court of appeals each ruled correctly in dismissing the complaint of the Petitioner.

CONCLUSION

It is respectfully submitted that the Petitioner has failed to sustain the burden of establishing that special and important reasons exist under Rule 19 which justify the grant of a writ of certiorari. The decisions from which this appeal is lodged do not involve any question of federal law which has not been well-established by this Court. The district court and circuit court of appeals each ruled correctly that the doctrine of judicial immunity applied to require dismissal of the complaint.

Respectfully Submitted,

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PROOF OF SERVICE – AFFIDAVIT

I, Thomas E. Jenks, Attorney at Law in the office of Jenks, Surdyk & Cowdrey Co., L.P.A., herein depose and say that on the 11th day of June, 1990, I served a copy of the foregoing Brief in Opposition to Petition for Writ of Certiorari to the Supreme Court of the United States on Beulah W. Booker, Petitioner herein, by delivering the same to Beulah W. Booker, located at 643 Miami Chapel Road, Dayton, Ohio 45408.

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Subscribed and sworn to before me, at this day of June, 1990.

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Notary Public